

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 250/2026

(Sheikh Shafi Sheikh Husen Vs. State of Maharashtra)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Mr. S. S. Sheikh Advocate for applicant.
 Mr. A. R. Chutke, APP for non-applicant/State.
 Mr. M.N. Ali, Advocate assist to prosecution.

CORAM: M. M. NERLIKAR, J.

DATED : 11/03/2026.

Heard the learned counsel appearing for applicant,
 learned APP and Mr. Ali, learned counsel who intends to
 assist the prosecution has also been heard, though he has
 not filed a formal application.

2. By this application, the applicant is seeking bail in
 connection with Crime No.325/2025 registered with the
 Police Station Khandala, Tq. Pusad, Dist. Yavatmal for the
 offence punishable under Sections 103, 189(2), 191(2),
 191(3), 190, 351(2), 351(3), 61(2), 238 of the Bharatiya
 Nyaya Sanhita.

3. Brief facts of the prosecution story is that the
 informant alleged that, on 15/09/2025, Begum bee Shaik
 Irfan @ Appu lodged the report in Police Station Khandala

alleging that Ayaj Shaikh Harun had been murdered and in that murder case, the name of three family members of the informant has been roped and her three sons have been arrested and put behind bar. Due to threats, her husband was staying in Mumbai and came back 3-4 days ago. Four persons namely Sk. Barkat, Sk. Kausar, Sk. Sahil and Sk. Sabdar, came to her agricultural field and asked "How did your husband come back to village, send him back to Mumbai, if I find him I will kill him". It is further submitted that, her husband used to drink liquor and therefore one Sk. Nabi Sk. Musa came to her field on 14.09.2025 at about 10.00 am and took him away on his motorcycle, but thereafter her husband did not return. It is further alleged that when her daughter-in-law, went to well to fetch water, at that time one Sk. Barkat Sk. Musa, Sk. Sahil Sk. Shafi, Sk. Kausar were present there, and she heard him saying, our work is done we have taken him down(killed), and thereafter they all left. She informed the said incident to her mother-in-law (informant) after returning home. Thereafter, the informant went to the police station for lodging complaint, where police official informed her that they have found one dead body which was identified by

the informant. On the basis of the aforementioned allegations First Information Report (“FIR”) came to registered.

4. The learned counsel for the applicant submits that the entire incident is concocted. He submits that on 15/09/2025, dead body of Shaikh Irfan @ Appu was found at about 10.00 a.m. near the road passing from Khandala to Washim. He submits that in fact there is no eye witness to the incident. Initially the report was lodged against five accused persons, wherein the name of the present applicant does not surface. He submits that due to previous enmity, the other accused persons are also implicated in the crime and total nine accused persons are arrayed in the crime. Even if the story of the prosecution is relied on, no role has been attributed to the present applicant. He submits that initially the report was lodged by the wife of the deceased. Thereafter one statement of Sakina was recorded on 23/09/2025 much after the incident, wherein even she has only stated that some of the accused persons came on motorcycle and they have disclosed that they have eliminated the deceased and accordingly they have shown knife and sword. He invited

my attention to one Sheikh Aslam Sheikh Irfan @ Appu, his statement is recorded on 15/09/2025, wherein he had come with new story of hatching of the conspiracy by all the accused persons. However, according to the applicant, the said witness has stated that on 14/09/2025 at about 04:30 PM all the accused persons in furtherance of their common intention hatched the conspiracy to eliminate Irfan. According to the applicant, Sheikh Aslam had never disclosed this fact to anyone before recording of the statement, therefore it is a brought up story by the prosecution. So far as the statement of eye witness is concerned who is 11 years of age, his statement was recorded on 07/10/2025 i.e. after 22 days of the incident, even if his statement is presumed to be true and correct, still no overt act is attributed to the present applicant. In the statement only the presence of the applicant was shown, however the assailants are other persons. There is no nexus between the present applicant and the alleged crime. He submits that no doubt so far as the postmortem report is concerned, there are as many as eight stab injuries on the person of Irfan, however those injuries cannot be attributed to the present applicant, accordingly he submits

that considering the fact that there is no material against the applicant and the entire story is concocted, the applicant be released on bail.

5. On the other hand, learned APP and Mr. Ali, learned counsel assisting the prosecution vehemently opposed the application and invited my attention to the FIR to submit that, though in the FIR the name of the applicant does not appear, however in the FIR itself it was disclosed that Sakina had informed the informant that some accused persons were saying that they have done the work by eliminating Irfan and they were having knife and sword in their hands. This fact was disclosed by Sakina immediately to the informant and accordingly this fact appears in the FIR. They submit that merely because after some days the statement of Sakina was recorded that by itself cannot be said to be a reason that the story is concocted. Even Sheikh Aslam has stated about the fact that all the accused persons hatched conspiracy and in pursuance of that conspiracy, they eliminated Irfan. Sheikh Aslam witnessed the meeting which was going on between the accused persons, where the present applicant was very well present. They further relied on the statement of

Sheikh Atik who is 11 years of age and who was cited as an eye witness. His statement was recorded on 07/10/2025. According to them, the said witness is an eye witness, he has seen that that Kurban, Sheikh Shafi Sheikh Husen (present applicant), Lukman, pushed his grandfather Irfan on bus-stand and they took Irfan on the side of the bus-stand, accordingly Barkat, Nabi, Shabdar, Sahil, Kausar, Altaf inflicted blow with the help of knife on the chest as well as back side and accordingly, the applicant and others threatened this witness, therefore, he did not disclose this fact to anyone. They further submit that the injuries inflicted on deceased Irfan would demonstrate that the present applicant along with others have committed brutal murder, therefore considering the nature of allegation, the applicant may not be released on bail.

6. I have considered the rival submissions. It could be gathered from the material placed before me that initially the FIR was registered by the wife of the deceased, wherein it is alleged that on 14/09/2025 at 10.00 a.m., the deceased was taken by one Sheikh Nabi Sheikh Musa, thereafter directly on 15/09/2025 at about 10.00 a.m., it was informed by Sakina that some of the accused persons

came near the well where she went to fetch the water and they disclosed that, "आपना काम हो गया आपणने टपका दिये उसको" when they went to register the missing report, it was informed by the police that one dead body was lying on the Khandala-Washim road near bus-stop, accordingly the informant went there and identified the dead body, several injuries were found on his husband's body and accordingly she has named five accused persons in the FIR. It appears that statement of Sakina was recorded on 23/09/2025. It could be further gathered that she stated that while she went to the well for fetching water, accused namely Sheikh Qurban Sheikh Hussain, Sheikh Lukman Sheikh Hussain, Sheikh Shafi Sheikh Hussain, Sheikh Altaf Sheikh Amanullah, Sheikh Barkat Sheikh Musa, Sheikh Sahil Sheikh Shafi came on motorcycle and they disclosed that they, "आपना काम हो गया आपणने टपका दिये उसको". All the accused persons were having knife and sword. However, it is to be noted that her statement was recorded on 23/09/2025 much after the incident took place, however there is no explanation to this. It could be further gathered that so far Sheikh Aslam Sheikh Irfan's statement is concerned, even he has stated about hatching of the

conspiracy by all accused persons, wherein name of the present applicant appears, however though he stated that on 14/09/2025 at about 4:30 p.m., he witnessed the meeting, wherein the conspiracy was hatched, however this fact was never disclosed by this witness to anyone immediately or thereafter till recording of the statement.

7. The eye witness's statement was recorded on 07/10/2025, wherein he has specifically stated that Qurban, Shafi and Lukman pushed his grandfather-deceased Irfan on the bus-stand and they took him aside, thereafter Barkat, Nabi, Sabdar, Sahil Kausar, Altaf have inflicted blows on the chest and back side of the deceased Irfan with the help of knife, even in this statement no overt act is shown on the part of the applicant, however this statement was recorded on 07/10/2025 and there is no explanation for delay. No doubt statement of independent witness namely Ganesh Dore was recorded on 27/11/2025, wherein he was shown as eye witness, though he has named many accused persons, however the statement was recorded almost after two months from the date of incident. Even in his statement, he has not stated the name of the present applicant as well as that the child

witness was present on the spot of incident.

8. Considering the above facts and circumstances of the case and the nature of evidence collected by the Investigating Officer, I am inclined to grant bail as the investigation is over and charge sheet is filed. Hence the following order:-

ORDER

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused Sheikh Shafi Sheikh Husen be released on bail in connection with Crime No.325/2025 registered with the Police Station Khandala, Tq. Pusad, Dist. Yavatmal for the offence punishable under Sections 103, 189(2), 191(2), 191(3), 190, 351(2), 351(3), 61(2), 238 of the Bharatiya Nyaya Sanhita on his furnishing P.R. Bond of Rs. 25,000/- with one surety in the like amount.
- (iii) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (iv) The accused shall provide his residential address and cell number to concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.
- (v) The applicant/accused shall attend each and every

date of trial regularly. If he fails to attend the trial for two consecutive dates or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail.

(vi) The applicant/accused shall not reside at village Khandala, Tq. Pusad, Dist. Yavatmal.

(vii) The observation of this Court are prima facie in nature and are only limited to this application. The Trial Court shall not be influenced by the aforesaid observation.

(M. M. NERLIKAR, J.)

Gohane